

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EDDIE A. YAZZIE : CIVIL ACTION
HC 61, Box 234 :
Winslow, AZ 86047 :

Plaintiff : NO.
: :
v. :
: :
THE BURLINGTON NORTHERN & :
SANTA FE RAILWAY COMPANY :
c/o C.T. Corporate Systems :
123 East Marcy :
Santa Fe, NM 87501 : JURY TRIAL DEMANDED

Defendant :
: :
COMPLAINT

1. This suit is governed by the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq., which Act grants this Court jurisdiction over this action.

2. Plaintiff, Eddie Yazzie, is a competent individual residing at the above-captioned address.

3. At all times material hereto, the Defendant, The Burlington Northern and Santa Fe Railway Company, successor in interest to the Burlington Northern Railroad Company and the Atchison, Topeka & Santa Fe Railway Company, was engaged in interstate commerce as a common carrier by rail, operating a line and system of railroads and transacting substantial business in the state of New Mexico and other states of the United States.

4. At all times relevant hereto, the Plaintiff was employed by Defendant railroad and was acting in the course and scope of his employment with Defendant, and

was engaged in the furtherance of interstate commerce within the meaning of said Act.

5. At all times relevant hereto, the acts of omission and commission causing injuries to the Plaintiff were done by the Defendant, its servants, agents and/or employees acting in the course and scope of their employment with and under the direct and exclusive control of the Defendant.

6. All the property, equipment and operations involved in this occurrence were, at all times relevant hereto, owned and/or under the direct and exclusive control of the Defendant, its agents, servants and/or employees.

7. On or about August 2, 2007, the Plaintiff, Eddie Yazzie, while working within the scope of his employment, in or near Laguna, NM (at bridge # 57.5), was injured due to unsafe and inadequate working conditions.

8. The aforesaid occurrence was directly and proximately caused in whole or in part by the negligence of the Defendant and/or the negligence of the Defendant's agents, servants and/or employees.

9. As a direct and proximate result of the Defendant's negligence, the Plaintiff has suffered and will continue to suffer injuries in the form of lacerations and scarring to his face and right shoulder along with various other injuries.

10. By reason of the aforesaid injuries, the Plaintiff has been disabled from gainful employment, his earning capacity has been permanently impaired, he has incurred and will continue to incur medical expenses and he has suffered and will continue to suffer inconvenience, great physical and mental pain and embarrassment.

WHEREFORE, the Plaintiff, Eddie Yazzie, demands judgment against the Defendant, The Burlington Northern and Santa Fe Railway Company, in a sum in excess

of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000.00) and the costs of this action.

CAPPELLI - MUSTIN

Date: 5/05/09

BY: /s/Shawn M. Sassaman
SHAWN M. SASSAMAN
Eight Tower Bridge, Suite 1090
161 Washington Street
Conshohocken, PA 19428
(610) 941-4444

Date: 05/05/09

BY: /s/Orlando A. Sandoval
ORLANDO A. SANDOVAL
1020 Lomas Blvd., N.W.
Albuquerque, NM 87102
(505) 247-4944